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FM AMEMBASSY GUATEMALA
TO RUEHC/SECSTATE WASHDC PRIORITY 2094
INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE
RUEHME/AMEMBASSY MEXICO 4058
RHEHNSC/NSC WASHDC
RHMFIUU/CDR USSOUTHCOM MIAMI FL
RHMFIUU/DEPT OF JUSTICE WASHINGTON DC
RUCNDT/USMISSION USUN NEW YORK 0129
RUEHC/DEPT OF LABOR WASHDC

UNCLAS GUATEMALA 000487

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E.O. 12958: N/A
TAGS: [PHUM](#) [PGOV](#) [SNAR](#) [EAID](#) [PTER](#) [ASEC](#) [KCRM](#) [KJUS](#) [GT](#)
SUBJECT: CICIG AGREEMENT SENT TO CONSTITUTIONAL COURT

REF: A. GUATEMALA 426
[1](#)B. GUATEMALA 403
[1](#)C. GUATEMALA 375
[1](#)D. GUATEMALA 348

This is sensitive but unclassified. Protect accordingly.

[1](#)1. (U) On March 6, the Guatemalan Congress sent the CICIG agreement (refs) to the Constitutional Court for an opinion on its legality, which will further delay ratification. At the request of the Foreign Relations Committee and with majority support of Congress, including representatives of ruling party GANA, the agreement was referred to the Constitutional Court to determine its constitutionality; whether the Public Ministry will retain its autonomy; and whether the agreement needs to be approved by two-thirds vote, as normally required for international agreements.

[1](#)2. (U) Zury Rios, head of the Foreign Relations Committee, explained that Committee members wanted to ensure that ratification of the agreement would not violate any law. Encuentro por Guatemala (EG), the Partido Patriota (PP), and the Union del Cambio Nacionalista (UCN) did not support the decision to consult the Constitutional Court.

[1](#)3. (U) In statements to reporters, President Berger reiterated the urgency of approving CICIG to ensure that mafias will not continue to operate with impunity and to guarantee greater security. Foreign Minister Gert Rosenthal highlighted for the press the benefits of CICIG and commented that given UN collaboration with Guatemala on the agreement, ratification would send a "good message."

[1](#)4. (SBU) Comment: This latest decision, announced just days after the agreement was referred to the Foreign Relations Committee after failing to obtain the necessary two-thirds vote in Congress for approval (ref A), is reminiscent of the 2004 decision to refer the original CICIACS proposal to the Constitutional Court, which ultimately deemed CICIACS unconstitutional. The new CICIG agreement was drafted to neutralize the constitutional concerns that the Court identified in the 2004 CICIACS agreement. A new Court was elected in 2006, and its magistrates are reportedly more favorably disposed to CICIG than their predecessors. However, as with CICIACS, Congress' decision to consult the Court on the CICIG agreement will delay the ratification process. At a minimum, it will take two months for the Court to render a decision, by which time the elections will complicate the legislative agenda.

